IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.263 OF 2004
IN
SECOND APPEAL NO.264 OF 2004

Yashwant Hari Wadekar & Ors. ...Applicants

Vs.

Maruti Raghu Wadekar ...Respondent

Mr. M.L.Palav with Mr.S.M.Kazi for the Applicants.
Mr. Arfan Sait h/f Mr.R.B.Tendulkar for the Respondent.

CORAM: A.S.OKA, J.
DATED: JANUARY 27,2005.

P.C.:

1. Rule. The Respondent waives service. The prayer (a) of the Civil Application is for stay of the decree of the Appellate Court. The said prayer obviously cannot be granted as effect of the decree passed by the Appellate Court is that the suit filed by the Appellant stands dismissed. So far as prayer (b) is concerned, there is nothing on record to show that any interim order was operating in favour of the Applicants either during the pendency of the suit or during the pendency of the Appeal in the District Court. The averments made in the Application do not disclose that after disposal of the Appeal by the District Court the Respondent has made any attempt to part with possession or to induct any third party on the suit plot or in the suit structure. In absence of any averment regarding existence of any such apprehension, injunction in terms of prayer (b) cannot be granted at this stage.

2. Civil Application is rejected. There will be no order as to costs.

Judge.